

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

TYRONE WALLACE,	:	
	:	4:09-cv-2210
Plaintiff,	:	
	:	Hon. John E. Jones III
v.	:	
	:	Hon. Thomas M. Blewitt
DIRECTOR HARLEY G. LAPPIN,	:	
<i>et al.</i> ,	:	
Defendants.	:	

MEMORANDUM

March 25, 2010

THE BACKGROUND OF THIS MEMORANDUM IS AS FOLLOWS:

This matter is before the Court on the Report and Recommendation (“R&R”) of Magistrate Judge Thomas M. Blewitt (Doc. 13), filed on March 2, 2010, which recommends that this action be dismissed due to Plaintiff’s failure to comply with Court orders. No objections to the R&R have been filed by any party.¹ For the reasons set forth below, the Court will adopt the R&R and this action will be dismissed.

¹ Objections were due by March 19, 2010.

I. STANDARD OF REVIEW

When, as here, no objections are made to a magistrate judge's report and recommendation, the district court is not statutorily required to review the report before accepting it. Thomas v. Arn, 474 U.S. 140, 149 (1985). According to the Third Circuit, however, "the better practice is to afford some level of review to dispositive legal issues raised by the report." Henderson v. Carlson, 812 F.2d 874, 878 (3d Cir. 1987). "[T]he court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation." Fed. R. Civ. P. 72(b), advisory committee notes; see also Henderson, 812 F.2d at 878-79 (stating "the failure of a party to object to a magistrate's legal conclusions may result in the loss of the right to de novo review in the district court"); Tice v. Wilson, 425 F. Supp. 2d 676, 680 (W.D. Pa. 2006); Cruz v. Chater, 990 F. Supp. 375-78 (M.D. Pa. 1998); Oldrati v. Apfel, 33 F. Supp. 2d 397, 399 (E.D. Pa. 1998). The Court's examination of this case confirms the Magistrate Judge's determinations.

II. DISCUSSION

Plaintiff Tyrone Wallace ("Plaintiff"), an inmate confined at the United States Penitentiary, Lewisburg, Pennsylvania, filed this *pro se* civil rights action on November 10, 2009. On December 7, 2009, Magistrate Judge Blewitt issued an Order requiring the Plaintiff to file an amended complaint within fifteen (15) days

of the date of said Order. The nine-page Order specified, in detail, the deficiencies in Plaintiff's original Complaint and warned Plaintiff that his failure to timely file an amended complaint would result in the issuance of an R&R recommending dismissal of the action.

When Plaintiff failed to timely file an amended complaint, Magistrate Judge Blewitt issued an R&R on January 6, 2010 recommending dismissal of the action. Plaintiff timely filed objections to the R&R. Based upon our receipt of those objections, this Court issued an Order on January 25, 2010 rejecting the R&R, remanding the matter to Magistrate Judge Blewitt, and requiring the Plaintiff to file an amended complaint within fifteen (15) days of the date of the Order. The January 25, 2010 Order specifically cautioned Plaintiff that his failure to file an amended complaint would result in dismissal of the action.

Once again the time frame for filing an amended complaint has passed without a filing by Plaintiff. Thus, Magistrate Judge Blewitt recommends dismissal of the action within the instant R&R. As we have already mentioned, neither Plaintiff or Defendants have filed objections to this R&R. Because we agree with the sound reasoning that led the Magistrate Judge to the conclusions in the R&R, we will adopt the R&R in its entirety and dismiss this action. With a mind towards conserving judicial resources, we will not rehash the reasoning of the Magistrate

Judge; rather, we will attach a copy of the R&R to this document, as it accurately reflects our consideration and resolution of the case sub judice. An appropriate Order shall issue.